

ICRC No.: EMse10060256
[REDACTED]

**JOSHUA BREWSTER, in his official capacity as
Deputy Director of the
Indiana Civil Rights Commission and**

[REDACTED],
Complainant,

v.

**MASCO ENTERTAINMENT, LLC, dba
FIRESIDE BREWHOUSE,**

Respondent.

**NOTICE OF FINDING AND
AMENDMENT**

The Deputy Director of the Indiana Civil Rights Commission (“Commission”), pursuant to statutory authority and procedural regulations, hereby issues the following Notice of Finding and Amendment with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred. 910 IAC 1-3-2(b)

On June 11, 2010, [REDACTED] (“Complainant”) filed a complaint with the Commission against Fireside Brewhouse (“Respondent”) alleging sexual harassment in violation of [REDACTED]

[REDACTED] the Indiana Civil Rights Law (IC 22-9, et seq.). Pursuant to 910 IAC 1-2-3(c) and 910 IAC 1-2-8(a), the complaint is hereby amended to add Joshua Brewster, in his official capacity as Deputy Director of the Commission, as a Complainant and Masco Entertainment, LLC, as Respondent. Complainant is an employee and

Respondent is an employer as those terms are defined by the Civil Rights Law. IC 22-9-1-3(h) and (i). Accordingly, the Commission has jurisdiction over the parties and the subject matter of this complaint.

An investigation has been completed. Both parties have submitted evidence. Based on the final investigative report and a full review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was subjected to a sexually hostile work environment resulting in her constructive discharge. In order to prevail on such a claim, Complainant must show that: (1) she was subjected to unwelcome sexual comments or actions; (2) the comments or actions were severe or pervasive; (3) Respondent knew or should have known of the hostility and (4) Respondent failed to take prompt remedial action to address the hostile work environment resulting in Complainant's constructive discharge.

Respondent concedes that Complainant did notify the owners that she had experienced pervasive sexual harassment at work. However, Respondent failed to take prompt remedial action to address the hostile work environment. Available evidence gained through witness testimony substantiates that Respondent's General Manager, [REDACTED], not only sexually harassed Complainant, but he also committed the same offense against several other female employees. As a result of one of the complaints made against [REDACTED], Respondent agreed that an investigation needed to be conducted; therefore, an attorney was hired and an investigation commenced. The record indicates that the outcome was a recommendation for [REDACTED] to be terminated. This investigation occurred before Complainant notified management about [REDACTED] subjecting her to unwanted sexual harassment. Moreover, several witnesses substantiated each other's accounts of [REDACTED] engaging in inappropriate conversations about female employee's breasts and other body parts. Additionally, the record shows that his unwanted sexual behavior had been reported on numerous occasions to Respondent's owners verbally and by written statements.

[REDACTED] was not immediately terminated as recommended by Respondent's attorney. Instead he was allowed to continue to work, take a vacation, and come back to work while a replacement for him was being located. It wasn't until he had a physical altercation with the girlfriend of

one of Respondent's partners that Stafford was finally terminated. Prior to Stafford's termination, Complainant informed Respondent that she would quit her job instead of enduring further sexual harassment. Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice occurred. The evidence indicates that relief for more than the individual Complainant is appropriate, so the Deputy Director hereby intervenes on behalf of the public interest and those employees who evidently experienced sexual harassment within the workplace. 910 IAC 1-2-3(c)

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged in the above-referenced case. IC 22-9-1-18, 910 IAC 1-3-5 The parties may elect to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election, or the Indiana Civil Rights Commission will hear this matter.
IC 22-9-1-16, 910 IAC 136

May 18, 2011

Date

Joshua S. Brewster, Esq.,
Deputy Director
Indiana Civil Rights Commission